

COLLOQUIES

Dependency Consent Colloquy

Introductory remarks.

- Will everyone please identify themselves for the record?
- Will the parents who are consenting to dependency please raise their right hands and be sworn?
- [Conduct this inquiry for each parent separately and create a clear record.]
- Please state your name.
- Please state your address.
- Please state your age.
- How far did you go in school?
- Do you read, write, and understand English?
- If not, do you read, write, and understand a language other than English?

Relation to child.

- [Conduct this inquiry for each parent separately and create a clear record.]
- Are you the parent of the child who is the subject of these proceedings?
- How are you related to the child? (ex. -mother, legal father, unmarried biological father, etc.)

Familiarity with dependency consent.

- [Conduct this inquiry for each parent separately and create a clear record.]
- Has you seen the consent form before?
- Did you read the consent form completely or have it read to you by another person?
- Do you understand each and every part of the consent form, including the rights you are giving up by consenting instead of fighting the case?
- Do you know that court papers called a petition have been filed that alleges that your child has been abused, neglected, or abandoned?
- Were you served with the petition along with a notice of rights?
- Did you read the petition and your notice of rights?
- Did you discuss the petition and notice with your attorney?
- Do you understand what the petition and notice say?

Knowing, intelligent, and voluntary nature of the consent.

- [Conduct this inquiry for each parent separately and create a clear record.]
- A consent means that you don't admit or deny what the petition says. It means that you don't want to fight the case but you agree to do the things I will order you to do in a specific time frame. Do you wish to consent to dependency?
- Is this **your own** decision and not someone else's decision?
- Do you understand that nobody else can force you to consent?
- Has anyone threatened you, forced you, mistreated you, lied to you, or pressured you to get you to consent?
- Has anyone promised you anything to get you to enter the consent?
- Do you know that other people's promises about the consent are not binding on the court?
- Why are you consenting?
- Has a doctor told you to take any medications?
- Are you taking those medications? If not, how long has it been since you took them?
- Are you taking other medications, even if not from a doctor? When was the last time you took them?
- When is the last time you drank alcohol?
- When is the last time you took illegal drugs?
- Have you used anything in the last two days?
- If so, what did you use?
- Have you ever been told you have a mental illness?
- If so, what type?
- Are you being treated for it now?
- Have you discussed this case and your choices with your lawyer?
- Without telling us what exactly you talked about with your lawyer, are you satisfied with how your lawyer has represented you in this case?
- Have you had enough time to speak to your lawyer? Do you want more time to talk to your lawyer?
- After having spoken to your lawyer, do you still wish to consent? If so, you may now sign the consent.
- [If parent has already signed the consent form] If yes, is this your signature on the consent?

Rights being waived.

- [Conduct this inquiry for each parent separately and create a clear record.]
- Do you understand that by entering this consent, you are giving up the following rights:
 - To have a trial or evidentiary hearing.
 - To make the department and GAL prove the case against you.
 - To question the witnesses against you under oath.
 - To look at the evidence, such as photos, from the department and GAL that they wish to use at trial.
 - To call your own witnesses on your behalf and make them come to court, if necessary.
 - To present your own relevant evidence at trial.
 - To testify and present your side of the case if you wish and be questioned by the other side.
- Do you understand after you consent:
 - The child will be adjudicated dependent.
 - The court will make factual findings that you have abused, neglected, or abandoned your child as set forth in the dependency petition.
 - A case plan will be prepared that you can help create. You must sign it and the court will have to approve it.
 - If you do not substantially comply with the case plan within the time limits put into the case plan then a petition may be filed to terminate your parental rights.
 - The department and the GAL has the right to come back to court before the time limit is over if you have not completed your case plan.
- Do you understand that once you consent, you can't simply change your mind and take it back?

Clarification.

- [Conduct this inquiry for each parent separately and create a clear record.]
- Before I accept your consent, I must be certain that you are doing so knowingly, intelligently, and voluntarily.
- I don't want you to feel threatened, coerced, mistreated, lied to, or pressured for any reason here today. If you have any such concerns, now is the time to say something.
- Now that you have answered my questions, do you still want to consent?
- Is there anything about the consent that you do not understand?

- Do you have any questions?
- Does your attorney have anything to say or put on the record.

Other parties.

- Do either the department or GAL have anything that they wish to say or put on the record?
- Does the department accept the consent?

Consent.

- [Make these findings for each parent separately and create a clear record.]
- The court finds that the consent entered is knowing, intelligent, and voluntary.
- The court finds that the parent named _____ :
 - Does not appear to be impaired by medication, alcohol, or drugs.
 - Does not appear to be impaired by mental illness [specify if applicable] from entering a consent.
 - Is aware of the consequences of the consent.
 - Has knowingly, intelligently, and voluntarily consented to adjudication of dependency.
- The court adjudicates the child to be dependent within the meaning and intent of Chapter 39. The specific factual basis for the dependency is as following: [make factual findings on the record; or as set forth in count I of the petition, etc.]
- Is there anything you or your attorney would like to say before I end the hearing?

Next hearing and conclusion.

- A Predisposition Study (PDS) is ordered. The parent will cooperate with the investigator.
- The disposition hearing and case plan acceptance is set for _____. [set the disposition hearing within 15 days and the case plan hearing within 30 days]

Court is adjourned.